

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO. 4701 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Vijay Gharat for the Petitioner.

Mr. C.G. Gavnekar for the Respondent Nos. 1.1 to 1.3 and 2.

CORAM : K. K. TATED, J.

DATED : 22/07/2016

PC.:

. Heard learned Counsel for the parties.

2 By this petition under Article 227 of the Constitution of India the Petitioner plaintiff challenges the order dated 14.02.2014 passed by Civil Judge, Junior Division, Pen below Exh. 15 in Regular Civil Suit No. 114 of 2013 allowing defendant's application.

3 In the present proceeding, petitioner plaintiff filed Regular Civil Suit No. 114 of 2013 against M/s. N. Gopal & Co., registered Partnership firm through their partners one Smt. Neeta Milind Hajare, Kum Amogh Milind Hajare, Kum. Aniket Milind Hajare for specific performance of agreement dated 31.06.1972.

4 The learned Counsel for respondents defendants contended that petitioner filed suit

against wrong defendants. He submitted that they are neither partners of M/s. N. Gopal Co., nor they are concerned with the said partnership firm. Hence, they preferred application below Exh.15 for dismissal of the suit on the ground that same was filed against wrong persons. Hence, Trial Court by impugned order dated 14.12.2014 directed plaintiff to prove the existence of partnership firm and the defendants as their partners. Hence, present Writ Petition.

5 The learned counsel for the petitioner submits that the burden is on defendants to prove that they are not the partners of the said firm and the said firm is not in existence. Hence, the impugned order be set aside.

6 I heard both the sides at length. It is to be noted that it is the duty of the plaintiff to prove the facts stated by him in the plaint. The present suit is filed by the plaintiff against partnership firm and partners. Hence, Trial Court directed plaintiff to prove the existence of partnership firm and the defendants as their partners.

7 Considering these facts, I do not find any substance in the present Writ Petition.

8 Hence, Writ Petition stands rejected.

(K.K.TATED, J.)